

**STATE WATER RESOURCES CONTROL BOARD
UNDERGROUND STORAGE TANK REGULATIONS
AMENDMENTS FOR IMPLEMENTATION OF SB 989**

December 22, 2000

NOTICE OF MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS

Pursuant to the requirements of Government Code section 11346.8(c), and section 44 of Title 1 of the California Code of Regulations, the State Water Resources Control Board (SWRCB) is providing notice of additional changes made to proposed regulations to implement Senate Bill 989. These regulations were the subject of a regulatory hearing on July 18, 2000. Changes to these proposed regulations in response to comments received prior to, and during, the public hearing, were also the subject of an additional 15-day comment period that began November 22, 2000 and ended December 11, 2000. Further changes to the proposed regulations have been made in response to comments received during the 15-day comment period, and these changes are the subject of this notice.

The text of the proposed amended regulations, and the statement of reasons for the revisions, are attached. **The changes made for this 15-day comment period are indicated by italic typeface either in double strikeout, or double underline.**

The SWRCB will accept written comments regarding the changes made to the proposed SB 989 regulations, and additional amendments to Chapter 16 to accommodate those changes, relating to this 15-day notice. All written comments must be submitted to the SWRCB no later than 5:00 p.m. on January 8, 2001, and addressed to:

State Water Resources Control Board
Division of Clean Water Programs
Underground Storage Tank Program
P.O. Box 944212
Sacramento, CA, 94244-2120
Attn: Charles NeSmith

Comments may also be faxed to Charles NeSmith at: **(916) 341-5808**

All written comments received by January 8, 2001 that pertain to the indicated changes will be reviewed and responded to by the SWRCB staff as part of the compilation of the rulemaking file. Please limit your comments to revisions of the proposed SB 989 regulations, and changes in the original text to accommodate those revisions, identified in this 15-day notice.

**STATE WATER RESOURCES CONTROL BOARD
UNDERGROUND STORAGE TANK REGULATIONS
TITLE 23, DIVISION 3, CHAPTER 16, CCR
AMENDMENTS FOR IMPLEMENTATION OF SB 989**

December 22, 2000

MODIFICATIONS OF PROPOSED TEXT OF REGULATIONS

Amend Title 23, Division 3, Chapter 16, Article 1, section 2611 of the California Code of Regulations to read as follows:

2611. Additional Definitions

Unless the context requires otherwise, the following definitions shall apply to terms used in this chapter.

"Bladder system" means a flexible or rigid material which provides primary containment including an interstitial monitoring system designed to be installed inside an existing underground storage tank.

"Cathodic protection tester" means a person who can demonstrate an understanding of the principles and measurements of all common types of cathodic protection systems as applied to buried or submerged metal piping and tank systems. The term includes only persons who have education and experience in soil resistivity, stray current, structure-to-soil potential, and component electrical isolation measurements of buried metal piping and tank systems.

"Coatings expert" means a person who, by reason of thorough training, knowledge, and experience in the coating of metal surfaces, is qualified to engage in the practice of internal tank lining inspections. The term includes only those persons who are independent of any lining manufacturer or applicator and have no financial interest in the tank or tanks being monitored.

"Compatible" means the ability of two or more substances to maintain their respective physical and chemical properties upon contact with one another for the design life of the tank system under conditions likely to be encountered in the underground storage tank.

"Connected piping" means all underground piping including valves, elbows, joints, flanges, and flexible connectors attached to a tank system through which hazardous substances flow. For the purpose of determining how much piping is connected to any individual underground storage tank system, the piping that joins two underground storage tank systems should be allocated equally between them.

"Continuous monitoring" means a system using equipment which routinely performs the required monitoring on a periodic or cyclic basis throughout each day.

"Corrosion specialist" means a person who, by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on metal underground storage tanks and associated piping. The term includes only persons who have been certified by the National Association of Corrosion Engineers or registered professional engineers who have certification or licensing that requires education and experience in corrosion control of underground storage tanks and associated piping.

"Decommissioned tank" means an underground storage tank which cannot be used for one or more of the following reasons: 1) the tank has been filled with an inert solid; 2) the fill pipes have been sealed; or, 3) the piping has been removed.

"Dispenser" means an aboveground or underground device ~~connected to underground storage tank piping~~ that is used for the delivery of a hazardous substance from ~~the~~ an underground storage tank. Dispenser includes metering and delivery devices, and fabricated assemblies located therein.

~~**"Dispenser spill containment or control system" means a device that is capable of preventing an unauthorized release from under the dispenser from entering the soil or groundwater or both.**~~

"Emergency containment" means a containment system for accidental spills which are infrequent and unpredictable.

"Excavation zone" means the volume containing the tank system and backfill material bounded by the ground surface, walls, and floor of the pit and trenches into which the underground storage tank system is placed at the time of installation.

"Existing underground storage tank" means an underground storage tank that was installed prior to January 1, 1984. The term also includes an underground storage tank installed before January 1, 1987 and which is located on a farm, has a capacity greater than 1,100 gallons, and stores motor vehicle fuel used primarily for agricultural purposes and not for resale.

"Farm tank" means any one tank or a combination of manifolded tanks that: 1) are located on a farm; and 2) hold no more than 1,100 gallons of motor vehicle fuel which is used primarily for agricultural purposes and is not held for resale.

"First ground water" means the uppermost saturated horizon encountered in a bore hole.

"Free product" refers to a hazardous substance that is present as a non-aqueous phase liquid (e.g., liquid not dissolved in water).

"Ground water" means subsurface water which will flow into a well.

"Hazardous substance" means a substance which meets the criteria of either subsection (1) or subsection (2) of section 25281(f) of the Health and Safety Code.

"Heating oil tank" means a tank located on a farm or at a personal residence and which holds no more than 1,100 gallons of home heating oil which is used consumptively at the premises where the tank is located.

"Holiday," when used with respect to underground storage tank coating or cladding, means a pinhole or void in a protective coating or cladding.

"Hydraulic lift tank" means a tank holding hydraulic fluid for a closed loop mechanical system that uses compressed air or hydraulic fluid to operate lifts, elevators, and other similar devices.

"Inconclusive" means the conclusion of a statistical inventory reconciliation report that is not decisive as to whether a release has been detected.

"Independent testing organization" means an organization which tests products or systems for compliance with voluntary consensus standards. To be acceptable as an independent testing organization, the organization shall not be owned or controlled by any client, industrial organization, or any other person or institution with a financial interest in the product or system being tested. For an organization to certify, list, or label products or systems in compliance with voluntary consensus standards, it shall maintain formal periodic inspections of production of products or systems to ensure that a listed, certified, or labeled product or system continues to meet the appropriate standards.

"Independent third party" means independent testing organizations, consulting firms, test laboratories, not-for-profit research organizations and educational institutions with no financial interest in the matters under consideration. The term includes only those organizations which are not owned or controlled by any client, industrial organization, or any other institution with a financial interest in the matter under consideration.

"Integral secondary containment" means a secondary containment system manufactured as part of the underground storage tank.

"Interstitial space" means the space between the primary and secondary containment systems.

"Leak threshold" means the value against which test measurements are compared and which serves as the basis for declaring the presence of a leak. The leak threshold is set by the manufacturer in order to meet state and federal requirements. Leak threshold is not an allowable leak rate.

"Liquid asphalt tank" means an underground storage tank which contains steam-refined asphalts.

"Liquefied petroleum gas tank" means an underground storage tank which contains normal butane, isobutane, propane, or butylene (including isomers) or mixtures composed predominantly thereof in a liquid or gaseous state having a vapor pressure in excess of 40 pounds per square inch absolute at a temperature of 100 degrees Fahrenheit.

"Maintenance" means the normal operational upkeep to prevent an underground storage tank system from releasing hazardous substances.

"Manufacturer" means any business which produces any item discussed in these regulations.

"Manual inventory reconciliation" means a procedure for determining whether an underground tank system is leaking based on bookkeeping calculations, using measured throughput and a series of daily inventory records taken manually by the tank owner or operator or recorded electronically. This term does not include procedures which are based on statistical inventory reconciliation.

"Membrane liner" means any membrane sheet material used in a secondary containment system. A membrane liner shall be compatible with the substance stored.

"Membrane liner fabricator" means any company which converts a membrane liner into a system for secondary containment.

"Membrane manufacturer" means any company which processes the constituent polymers into membrane sheeting from which the membrane liner is fabricated into a system for secondary containment.

"Motor vehicle" means a self-propelled device by which any person or property may be propelled, moved, or drawn.

"Motor vehicle fuel tank" means an underground storage tank that contains a petroleum product. The definition does not include underground storage tanks that contain used oil.

"New underground storage tank" means an underground storage tank which is not an existing underground storage tank.

"Non-volumetric test" means a tank integrity test method that ascertains the physical integrity of an underground storage tank through review and consideration of circumstances and physical phenomena internal or external to the tank.

"Operational life" means the period beginning when installation of the tank system has begun until the time the tank system should be properly closed.

"Operator" means any person in control of, or having responsibility for, the daily operation of an underground storage tank system.

"Person", as defined in Chapter 6.7 of Division 20 of the Health and Safety Code includes any entity defined as a person under the Federal Act.

"Perennial ground water" means ground water that is present throughout the year.

"Petroleum" means petroleum including crude oil, or any fraction thereof, which is liquid at standard conditions of temperature and pressure, which means at 60 degrees Fahrenheit and 14.7 pounds per square inch absolute.

"Pipeline leak detector" means a continuous monitoring system for underground piping capable of detecting at any pressure, a leak rate equivalent to a specified leak rate and pressure, with a probability of detection of 95 percent or greater and a probability of false alarm of 5 percent or less.

"Probability of detection" means the likelihood, expressed as a percentage, that a test method will correctly identify a leaking underground storage tank.

"Probability of false alarm" means the likelihood, expressed as a percentage, that a test method will incorrectly identify a "tight" tank as a leaking underground storage tank.

"Qualitative release detection method" means a method which detects the presence of a hazardous substance or suitable tracer outside the underground storage tank being tested.

"Quantitative release detection method" means a method which determines the integrity of an underground storage tank by measuring a release rate or by determining if a release exceeds a specific rate.

"Release detection method or system" means a method or system used to determine whether a release of a hazardous substance has occurred from an underground tank system into the environment or into the interstitial space between an underground tank system and its secondary containment.

"Repair" means to restore a tank or underground storage tank system component that has caused a release of a hazardous substance from the underground storage tank system.

"Septic tank" means a tank designed and used to receive and process biological waste and sewage.

"Spill containment or control system" means a device that is capable of preventing an unauthorized release from the dispenser from entering the soil or groundwater or both.

"Statistical inventory reconciliation" means a procedure to determine whether a tank is leaking based on the statistical analysis of measured throughput and a series of daily inventory records taken manually by the tank owner or operator or recorded electronically.

"Statistical inventory reconciliation provider" means the developer of a statistical inventory reconciliation method that meets federal and state standards as evidenced by a third-party evaluation conducted according to section 2643(f), or an entity that has been trained and certified by the developer of the method to be used. In either case, the provider shall have no direct or indirect financial interest in the underground storage tank being monitored.

"Storm water or wastewater collection system" means piping, pumps, conduits, and any other equipment necessary to collect and transport the flow of surface water run-off resulting from precipitation, or domestic, commercial, or industrial wastewater to and from retention areas or any areas where treatment

is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

"Substantially beneath the surface of the ground" means that at least 10 percent of the underground tank system volume, including the volume of any connected piping, is below the ground surface or enclosed below earthen materials.

"Sump," "pit," "pond," or "lagoon" means a depression in the ground which lacks independent structural integrity and depends on surrounding earthen material for structural support of fluid containment.

"Tank integrity test" means a test method that can ascertain the physical integrity of an underground storage tank. The term includes only test methods which are able to detect a leak of 0.1 gallons per hour with a probability of detection of at least 95 percent and a probability of false alarm of 5 percent or less. The test method may be either volumetric or non-volumetric in nature. A leak rate is reported using a volumetric test method, whereas, a non-volumetric test method reports whether a substance or physical phenomenon is detected which may indicate the presence of a leak.

"Unauthorized release" as defined in Chapter 6.7 of Division 20 of the Health and Safety Code does not include intentional withdrawals of hazardous substances for the purpose of legitimate sale, use, or disposal.

"Under-Dispenser Containment" means secondary containment that is located under a dispenser.

"Under-Dispenser spill containment or control system" means a device that is capable of preventing an unauthorized release from under the dispenser from entering the soil or groundwater or both.

"Upgrade" means the addition or retrofit of some systems such as cathodic protection, lining, secondary containment, or spill and overfill controls to improve the ability of an underground storage tank system to prevent the release of hazardous substances.

"Upgrade compliance certificate" includes a numbered decal, file copy of the decal, and plastic fill pipe tag as described in Section 2712.1 of these regulations.

"Volumetric test" means a tank integrity test method that ascertains the physical integrity of an underground storage tank through review and comparison of tank volume.

"Voluntary consensus standards" means standards that shall be developed after all persons with a direct and material interest have had a right to express a viewpoint and, if dissatisfied, to appeal at any point (a partial list of the organizations that adopt voluntary consensus standards are shown in Appendix I, Table B).

"Wastewater treatment tank" means a tank designed to treat influent wastewater through physical, chemical, or biological methods and which is located inside a public or private wastewater treatment facility. The term includes untreated wastewater holding tanks, oil water separators, clarifiers, sludge

holding tanks, filtration tanks, and clarified water tanks that do not continuously contain hazardous substances.

Authority cited: Sections 25299.3 and 25299.7, Health and Safety Code.

Reference: Sections 25281, 25282, 25283, 25284, **25284.1**, 25292.3 and 25299.5(a), Health and Safety Code; 40 CFR 280.10 and 280.12.

Amend Title 23, Division 3, Chapter 16, Article 3, existing sections 2630, 2631, 2635, and 2636 of the California Code of Regulations to read as follows:

2636. Design, Construction, Installation, Testing, and Monitoring Requirements for Piping ~~and Under-dispenser Containment.~~

- (a) Except as provided below, piping connected to tanks which were installed after July 1, 1987, shall have secondary containment that complies with the requirements of section 2631 for new underground storage tanks. This requirement does not apply to piping described as follows:
 - (1) vent or tank riser piping, provided the primary containment system is equipped with an overfill prevention system meeting the requirements specified in sections 2635(b)(2)(B) or (C); or,
 - (2) vapor recovery piping if designed so that it cannot contain liquid-phase product; or,
 - (3) suction piping if the piping is designed, constructed, and installed as follows:
 - (A) The below-grade piping operates at less than atmospheric pressure (suction piping);
 - (B) The below-grade piping is sloped so that the contents of the pipe will drain back into the storage tank if the suction is released (gravity-flow piping);
 - (C) No valves or pumps are installed below grade in the suction line. Only one check valve is located directly below and as close as practical to the suction pump;
 - (D) An inspection method is provided which readily demonstrates compliance with subdivisions (A) through (C) above.

- (b) All corrodible underground piping, if in direct contact with backfill material, shall be protected against corrosion. Piping constructed of fiberglass-reinforced plastic, steel with cathodic protection, or steel isolated from direct contact with backfill, fulfills this corrosion protection requirement. Cathodic protection shall meet the requirements of section 2635(a)(2).
- (c) Underground primary piping shall meet all of the following requirements:
 - (1) Primary piping in contact with hazardous substances under normal operating conditions shall be installed inside a secondary containment system which may be a secondary pipe, vault, or a lined trench. All secondary containment systems shall be sloped so that all releases will flow to a collection sump located at the low point of the underground piping.
 - (2) Primary piping and secondary containment systems shall be installed in accordance with an industry code of practice developed in accordance with voluntary consensus standards. The owner or operator shall certify that the piping was installed in accordance with the above requirements of section 2635(d). The certification shall be made on the "Certification of Compliance for Underground Storage Tank Installation Form C" (see Appendix V).
- (d) Lined trench systems used as part of a secondary containment system shall be designed and constructed according to a code of practice or engineering standard approved by a state registered professional engineer. The following requirements shall also apply:
 - (1) All trench materials shall be compatible with the substance stored and evaluated by an independent testing organization for their compatibility or adequacy of the trench design, construction, and application.
 - (2) The trench shall be covered and capable of supporting any expected vehicular traffic.
- (e) All new primary piping and secondary containment systems shall be tested for tightness after installation in accordance with manufacturer's guidelines. Primary pressurized piping shall be tested for tightness hydrostatically at 150 percent of design operating pressure or pneumatically at 110 percent of design operating pressure. If the calculated test pressure for pressurized piping is less than 40 psi, 40 psi shall be used as the test pressure. The pressure shall be maintained for a minimum of 30 minutes and all joints shall be soap tested. A failed test, as evidenced by the presence of bubbles, shall require appropriate repairs and retesting. If there are no manufacturer's guidelines, secondary containment systems shall be tested using an applicable method specified in an industry code or engineering standard. Suction piping and gravity flow piping which cannot be isolated from the tank shall be tested after installation in conjunction with an overfilled volumetric tank integrity test, or other test method meeting the requirements of section 2643(f), if approved by the local agency.

- (f) Underground piping with secondary containment, including under-dispenser piping with secondary containment, shall be equipped and monitored with monitoring systems as follows:
- (1) ~~All The~~ secondary containment, including under-dispenser containment, ~~and under-dispenser spill control or containment systems~~, system shall be equipped with a continuous monitoring system that either activates ~~which meets the requirements of section 2643(f) and which is connected to~~ an audible and visual alarm system or stops the flow of product at the dispenser when it detects a leak.
 - (2) Automatic line leak detectors shall be installed on underground pressurized piping and shall be capable of detecting a 3-gallon per hour leak rate at 10 psi within 1 hour with a probability of detection of at least 95 percent and a probability of false alarm no greater than 5 percent. ~~Compliance with these standards shall be certified in accordance with section 2643(f) of Article 4.~~
 - (3) Other monitoring methods may be used in lieu of the requirement in subdivision (2) if it is demonstrated to the satisfaction of the local agency that the alternate method is as effective as the methods otherwise required by this section. ~~A~~ ~~C~~continuous monitoring systems as described in subdivision (1), which shuts down the pump in addition to either activating the audible and visual alarm system or stopping the flow of product at the dispenser, satisfies the automatic line leak detector requirement of subdivision (2).
 - (4) Monitoring shall be conducted on all underground pressurized piping with secondary containment at least annually at a pressure designated by the equipment manufacturer, provided that the method is capable of detecting a minimum release equivalent to 0.1 gallon per hour defined at 150 percent of the normal operating pressure of the product piping system at the test pressure with at least a 95 percent probability of detection and not more than a 5 percent probability of false alarm. This requirement is waived if the criteria in subsection (g) of this section are met.
- (g) Underground pressurized piping which meets all of the following requirements satisfies the annual tightness test requirement specified in subsection (f)(4):
- (1) ~~All The~~ secondary containment systems ~~is are~~ equipped with a continuous monitoring systems. The leak detection device may be located at the pump sump for sections of ~~if~~ the piping that slopes back to this point.
 - (2) ~~All A~~ continuous monitoring systems ~~is for the piping are~~ connected to ~~an audible and visual alarm system and~~ the pumping system.
 - (3) ~~All A~~ continuous monitoring systems for the piping shuts down the pump and either activates an audible and visual ~~the~~ alarm system or stop the flow of product at the dispenser when they detect a leak ~~a release is detected.~~

- (4) The pumping system shuts down automatically if any of the continuous monitoring systems for the piping fail or are is disconnected.
- (5) The requirements of subdivisions (3) and (4) do not apply to an emergency generator, provided the monitoring system is checked at least daily.

(h) Under-dispenser containment shall be designed, constructed, and installed in accordance with the following:

(1) Owners or Operators of a UST system shall have the system fitted with under-dispenser containment, or an approved *under-dispenser* spill containment or control system according to the following schedule:

- (A) At the time of installation for systems installed after January 1, 2000.
- (B) By July 1, 2001, for systems installed after July 1, 1987 that are located within 1,000 feet of a public drinking water well, as identified pursuant to the state notified by the board according to its Geographic Information System mapping database.
- (C) By December 31, 2003, for systems not subject to subsection 2636(h)(1)(A) or (B).

(2) Under-dispenser containment ~~must~~ shall be designed, constructed, installed, and monitored in accordance with section 2631, 2636(c)(2), 2636(e), and 2636(f). ~~Separate monitoring for under-dispenser containment is not required if the lowest point of the under-dispenser containment drains to a monitoring point within the connected piping system.~~

(3) A manufacturer of an *under-dispenser* spill containment or control system may apply to the Division of Clean Water Programs Underground Storage Tank Program Manager for approval of the system. Owners or operators shall not install an *under-dispenser* spill containment or control system that has not been approved.

(A) Applications for approval shall be submitted in writing and include the following:

- (i) A description of the proposed system.**
- (ii) Clear and convincing evidence that the system will protect the soil and beneficial uses of the waters of the state from unauthorized releases.**

(B) The Program Manager shall review the application to determine if the proposed system adequately protects the soil and beneficial uses of

groundwater before determining whether to approve the proposed system.

- (C) The Program Manager may modify or revoke a previously issued approval if it finds that, based on new evidence, the approved system does not adequately protect the soil and beneficial uses of groundwater from unauthorized releases.

Authority cited: Sections 25299.3 and 25299.7, Health and Safety Code.

Reference: Sections 25281, 25284.1, 25291 and 25299, Health and Safety Code; 40 CFR 280.20, 280.40-280.45.

Amend Title 23, Division 3, Chapter 16, Article 3, to add new sections 2636.1, 2636.2, 2636.3, 2636.4 and 2637 of the California Code of Regulations as follows:

2636.1. Final Division Decisions Regarding ~~Under-~~Dispenser Spill Containment or Control Systems

- (a) A manufacturer of an ~~under-~~dispenser spill containment or control system who disagrees with a determination by the Program Manager not to approve the manufacturer's system under section 2636(h)(3)(B) or to modify or revoke a previously issued approval of the manufacturer's system under section 2636(h)(3)(C) may ask for a review by the Division Chief.
- (b) An appeal to the Division Chief must be in writing and must be accompanied by all material that the manufacturer wishes to be considered by the Division Chief, and by the Board in any subsequent review by the Board. The appeal must contain an explanation why the manufacturer believes the Program Manager's determination is erroneous, inappropriate, or improper.
- (c) The Division Chief shall render a Final Division Decision within 30 days of receipt of the appeal. A Final Division Decision is final and conclusive unless the manufacturer files a petition for review with the Board that is received by the Board within 30 days from the date of the Final Division Decision.
- (d) The Division Chief may at any time, on the Division Chief's own motion, issue a Final Division Decision.

Authority cited: Sections 25299.3 and 25299.7, Health and Safety Code.

Reference: Section 25284.1, Health and Safety Code.

2636.2. Petition for Board Review Regarding ~~Under-~~Dispenser Spill Containment or Control Systems

- (a) A manufacturer may petition the Board for review of a Final Division Decision.

(b) A petition for Board review shall contain the following:

- (1) The name and address of the petitioner;**
 - (2) A statement of the date on which the petitioner received the Division's final decision;**
 - (3) A copy of the Final Division Decision that the Board is requested to review;**
 - (4) An explanation why the petitioner believes the Final Division Decision is erroneous, inappropriate, or improper;**
 - (5) A statement describing how the petitioner is damaged by the Final Division Decision; and**
 - (6) A description of the remedy or outcome desired.**
- (c) The petition shall be sent to the Board Chairperson, with copies sent to the Chief Counsel of the Board, and the Division Chief.**
- (d) The petitioner may request a hearing for the purpose of presenting factual material not presented to the Division Chief or for oral argument or both. The request to present material that was not presented to the Division Chief must include a description of the factual material that the petitioner wishes to submit, the facts that the petitioner expects to establish, and an explanation of the reasons why the petitioner could not previously submit the new material to the Division Chief. The petitioner must include with the petition a copy of any new documentary material that the petitioner wishes to present to the Board.**
- (e) The Division Chief may file a response to the petition with the Board within 30 days of the Board's notification to the petitioner that the petition is complete. The Division must provide a copy of any response to the petitioner. The Board may extend the time for filing a response by the Division Chief.**

Authority cited: Sections 25299.3 and 25299.7, Health and Safety Code.

Reference: Section 25284.1, Health and Safety Code.

2636.3. Defective Petitions

Upon the Board's receipt of a petition which does not comply with section 2636.2 of this chapter, the Board, through its Chief Counsel, will advise the petitioner of the manner in which the petition is defective and allow a reasonable time within which an amended petition may be filed. If the Board does not receive a properly amended petition within the time allowed, the petition shall be dismissed.

Authority cited: Sections 25299.3 and 25299.7, Health and Safety Code.
Reference: Section 25284.1, Health and Safety Code.

2636.4. Action by the Board Regarding *Under-dispenser Spill Containment or Control Systems*

- (a) In response to the petition, the Board may:**
- (1) Refuse to review the petition if it is late or fails to raise substantial issues that are appropriate for Board review;**
 - (2) Affirm the final decision that the Board has been requested to review;**
 - (3) Set aside or modify the final decision that the Board has been requested to review; or**
 - (4) Take such other action as the Board deems appropriate.**
- (b) Before taking action, the Board may, at its discretion, hold a hearing, or provide for an informal meeting between the petitioner, the Division Chief, a member of the Board, and such other persons as the Board deems appropriate for the purpose of attempting to resolve the dispute.**
- (c) If an evidentiary hearing is held, it shall be conducted in accordance with the California Code of Regulations, title 23, division 3, Chapter 1.5, article 2.**
- (d) The Board reserves the right, at its discretion, to consider a petition upon its own motion.**

Authority cited: Sections 25299.3 and 25299.7, Health and Safety Code.
Reference: Section 25284.1, Health and Safety Code.

2637. Secondary Containment Testing and Annual Maintenance Certification

- (a) Secondary containment systems installed on or after January 1, 2001 at all secondary containment of underground storage tank systems, including, but not limited to, open secondary containment, lined trench systems, under-dispenser containment, and sumps, shall be tested upon installation, 6 months after installation, and every 36 months thereafter. Secondary containment systems installed prior to January 1, 2001 shall be tested by January 1, 2002 and every 36 months thereafter. Secondary containment testing shall be conducted as follows:**
- (1) By December 31, 2002, the owner or operator of any secondary containment system that the owner or operator determines cannot be tested in accordance with this section shall replace the secondary containment**

system with a system that can be tested in accordance with this section. As an alternative, the owner or operator may submit a proposal and workplan for enhanced leak detection to the local agency in accordance with subdivisions 2644.1 (a)(1), (2), (4), and (5) by July 1, 2002; complete the program of enhanced leak detection by December 31, 2002; and replace the secondary containment system with a system that can be tested in accordance with this section by July 1, 2005. , in accordance with subsections 2644.1(a)(1), (2), (4), and (5), submit a proposed program of enhanced leak detection to the local agency by October 1, 2001. The local agency shall review the proposed program of enhanced leak detection within ~~30~~ 45 days of submittal or re-submittal. After approval by the local agency, the owner or operator shall implement the program no later than January 1, 2002. Additionally, the owner or operator shall replace this secondary containment with a system that can be tested in accordance with this section on or before July 1, 2005.

- (2) Secondary containment systems shall must be tested to test criteria no less stringent than those used at installation. Additionally, secondary containment systems shall be tested in accordance with manufacturer's guidelines and or standards. If there are no manufacturer's guidelines or standards, secondary containment systems must be tested using an applicable method specified in an industry code or engineering standard. If there are no manufacturers guidelines, industry codes, or engineering standards a test method approved by a state registered professional engineer shall be used. In lieu of testing in accordance with manufacturers guidelines, industry code, or an engineering standard, the local agency may approve the method.
 - (3) Secondary containment testing shall be performed by either a licensed tank tester, licensed tank installer, or any person meeting the requirements of subsection 2637 (b)(1).
 - (4) Underground storage tank owners and operators shall submit a copy of the test report to the local agency within 30 days of the completion of the test.
 - (5) Owners and operators of underground storage tanks must notify the local agency at least 48 hours prior to conducting the test, unless this notification requirement is waived by the local agency.
 - (6) Secondary containment systems where the continuous monitoring automatically monitors both primary and secondary containment, such as systems that are hydrostatically monitored or under constant vacuum, are exempt from periodic secondary containment testing.
- (b) All monitoring equipment used to satisfy the requirements of this article shall be installed, calibrated, operated and maintained in accordance with manufacturer's

instructions, and certified every 12 months for operability, proper operating condition, and proper calibration. Written records shall be maintained as required in section 2712. On or after January 1, 2002 the following shall also apply: annual certification of monitoring equipment shall be conducted as follows:

- (1) ~~Persons~~ A person performing installation, repair, maintenance, calibration, or annual certification of monitoring equipment ~~the annual monitoring equipment certification~~ shall meet the following requirements:

 - (A) Possess a current Class “A” General Engineering Contractor License, C-10 Electrical Contractor License, C-34 Pipeline Contractor License, C-36 Plumbing Contractor License, or C-61 (D40) Limited Specialty Service Station Equipment and Maintenance Contractor License issued by the Contractors State License Board.
 - (B) Be trained and certified by the manufacturer of the monitoring equipment; and,
 - (C) Be re-certified by the manufacturer ~~upon~~ by completion of a manufacturer’s refresher course. ~~every 36 months.~~ Additionally, this certification shall be renewed at the time interval recommended by the manufacturer, or every 36 months, whichever is shorter.
- ~~(2)~~ (3) Individuals employed by persons performing installation, repair, maintenance, calibration, or annual certification of monitoring equipment for the purpose of conducting this work shall meet the requirements of 2637(b)(1)(B) and (C).
- ~~(2)~~ (3) Annual The monitoring equipment certification shall be made on a “Monitoring System Certification” form (see Appendix VI).
- ~~(3)~~ (4) UST owners and operators shall submit a completed “Monitoring System Certification” form to the local agency within 30 days after completion of the inspection.
- ~~(4)~~ (5) The UST owner or operator shall notify the local agency at least 48 hours prior to conducting the installation, repair, replacement, calibration, or certification of monitoring equipment unless the notification requirement is waived by the local agency
- ~~(5)~~ (6) A person conducting UST monitoring equipment certification shall affix a tag/sticker on each monitoring equipment component that is being certified, repaired, or replaced. The tag/sticker shall be placed in a readily visible location and shall include the date the UST component was certified, repaired, or replaced, and the contractors license number.

Authority cited: Sections 25299.3 and 25299.7, Health and Safety Code.

Reference: Sections 25281, 25284.1, 25291 and 25292, Health and Safety Code; 40 CFR 280.41.

Amend Title 23, Division 3, Chapter 16, Article 4, sections 2640 and 2641 of the California Code of Regulations to read as follows:

2640. General Applicability of Article

- (a) The requirements of this article apply to owners or operators of existing underground storage tanks.
- (b) The requirements of this article apply during the following periods:
 - (1) Any operating period, including any period during which the tank is empty as a result of withdrawal of all stored substances before input of additional hazardous substances;
 - (2) Any period during which hazardous substances are stored in the tank, and no filling or withdrawal is conducted; and
 - (3) Any period between cessation of the storage of hazardous substances and the actual completion of closure, pursuant to Article 7, unless otherwise specified by the local agency, pursuant to section 2671(b), during a temporary closure period.
- (c) This article shall not apply to underground storage tanks that are designed, constructed, installed, and monitored in accordance with ~~sections 2631 and 2632 or 2633 and 2634 of~~ Article 3.
- (d) Owners or operators of tanks monitored pursuant to section 25292(b)(5)(A) of the Health and Safety Code shall comply with the requirements of section 2645. Tank systems having a capacity of more than 2,000 gallons shall not be monitored pursuant to section 25292(b)(5)(A) of the Health and Safety Code.
- (e) **An owner or operator of an underground storage tank system with a single-walled component that is located within 1,000 feet of a public drinking water well , as notified by the board according to its Geographic Information System mapping database, shall implement a program of enhanced leak detection or monitoring for that tank system in accordance with section 2644.1. Additionally, the following conditions for enhanced leak detection shall apply:**
 - (1) **For the purpose of section 2644.1, vent or tank riser piping, vapor recovery piping, and suction piping that meet the definitions of section 2636(a)(1), (2), or (3), are not considered single-walled components.**
 - (2) **Owners or operators notified by the board who believe that their facility is not subject to this requirement may request reconsideration by the Division of Clean Water Programs Underground Storage Tank Program Manager. The request shall be in writing and received by the Underground Storage Tank Program Manager within 60 90 calendar days of the date of the**

notification was mailed. The Program Manager shall make a decision on the request within 30 calendar days of receipt of the request. The Program Manager shall make a decision on the request, and notify the applicable local agency of this decision, within 90 calendar days of receipt of the request.

- (3) The request for reconsideration must include the name and address of the subject facility, the name and address of the owner or operator submitting the request, and the reason(s) why the requester believes the board notification was in error. If the request is based on evidence a belief that the UST system in question is greater than 1,000 feet from a public drinking water well, the request shall include a demonstration that the center of the well head is more than 1,000 ft from the closest component of the UST system a scaled map showing the location of the subject UST system and the location of the nearest public drinking water well. If the request is based on evidence a determination that the subject UST system does not have a single-walled component, the request shall include supporting documentation. A copy of the request shall be concurrently submitted to the local agency.**

Authority cited: Sections 25299.3 and 25299.7, Health and Safety Code.

Reference: Sections 25292 and **25292.4**, Health and Safety Code; 40 CFR 280.40, 280.42 and 280.43(b).

Amend Title 23, Division 3, Chapter 16, Article 6, section 2660 and 2666 of the California Code of Regulations to read as follows:

2660. General Applicability of Article

- (a) This article describes the requirements for repairing or upgrading underground storage tank systems. Upgrades and repairs shall be properly conducted in accordance with this article and any additional manufacturers' specifications.
- (b) Section 2661 describes the requirements for repairing underground storage tanks, piping, or other underground storage tank system components that have caused an unauthorized release as defined in sections 25294 and 25295 of the Health and Safety Code.
- (c) Section 2662(b) describes upgrade requirements for underground storage tanks containing hazardous substances other than motor vehicle fuel. Sections 2662(c), and (d) describe upgrade requirements for all underground storage tanks containing motor vehicle fuel. Underground storage tanks which contain motor vehicle fuel and which are constructed of fiberglass, other non-corrosive materials, steel clad with fiberglass, or steel clad with other noncorrosive materials, are not required to comply with the requirements of section 2662(c), but are required to meet the requirements of section 2662(d).
- (d) Section 2663 describes the requirements for upgrading or repairing tanks using interior lining.
- (e) Section 2664 describes the requirements for upgrading tanks using bladder systems.

- (f) Section 2665 describes the upgrade requirements for spill and overfill prevention equipment.
- (g) Section 2666 describes the upgrade requirements for underground piping ~~and dispensers.~~
- (h) Upgrade requirements for underground storage tanks, spill and overfill prevention, and underground piping shall be completed no later than December 22, 1998. ~~Upgrade requirements for dispensers shall be completed no later than December 31, 2003.~~
Requirements for under-dispenser containment, or under-dispenser spill control or containment systems, shall be completed no later than December 31, 2003.
- (i) As a preventive measure, an owner or operator may upgrade any underground storage tank constructed of any material which is not under pressure and which contains motor vehicle fuel as specified in sections 2662(a), (c), and (e). Before upgrading in accordance with this subsection, the owner or operator shall prove to the satisfaction of the local agency that the underground storage tank system has not caused an unauthorized release. If soil samples are taken, the owner or operator shall notify the local agency in advance of taking the samples.
- (j) Owners or operators shall maintain records of repairs, linings, and upgrades that demonstrate compliance with the requirements of this article for the remaining operating life of the tank.
- (k) Local agencies shall not approve a repair or upgrade unless it can be demonstrated that the underground storage tank system is structurally sound and the method of repair or upgrade will prevent unauthorized releases due to structural failure or corrosion during the operating life of the underground storage tank system.
- (l) The materials used in the repair or upgrading process shall be applied in accordance with nationally recognized engineering practices.
- (m) Materials used in repairs and upgrades shall be compatible with the existing underground storage tank system materials and shall not be subject to deterioration due to contact with the hazardous substance being stored.
- (n) Steel underground storage tanks that exhibit external corrosion during the course of repair or upgrade shall comply with the cathodic protection requirements of section 2635(a)(2).

Authority cited: Sections 25299.3 and 25299.7, Health and Safety Code.

Reference: Sections ~~25284.1~~, 25292, 25292.1 and 25296, Health and Safety Code; 40 CFR 280.21, 280.33 and 281.32(d)

2666. Requirements for Upgrading Underground Piping ~~and Dispensers~~

- (a) By December 22, 1998, all underground piping containing hazardous substances other than motor vehicle fuel shall be retrofitted with secondary containment meeting the requirements of section 2636.

- (b) By December 22, 1998, all underground piping containing motor vehicle fuel and connected to an existing tank shall be retrofitted with secondary containment unless the owner or operator demonstrates to the local agency that the piping is constructed of fiberglass reinforced plastic, cathodically protected steel, or other materials compatible with stored products and resistant to corrosion. The secondary containment system shall meet the construction, installation, and monitoring requirements of section 2636.
- (c) By December 22, 1998, all automatic line leak detectors for underground pressurized piping which is not secondarily contained shall be capable of shutting off the pump when a release occurs. In addition, the pumping system shall shut down automatically if the automatic line leak detector fails or is disconnected. In lieu of the above, for underground storage tank emergency generator systems, the leak detector must be connected to an audible and visible alarm to indicate a release or malfunction of the system.
- (d) All underground piping and secondary containment shall be tested for tightness after installation in accordance with section 2636(e).
- (e) **By December 31, 2003, all existing underground storage tanks shall be retrofitted with under-dispenser containment, or an *under-dispenser* spill containment or control system. The under-dispenser containment or *under-dispenser* spill containment or control system shall meet, where applicable, the requirements of 2636(h)(2), or 2636(h)(3).**

Authority cited : Sections 25299.3 and 25299.7, Health and Safety Code.

Reference: Section **25284.1**, 25292 and 25292.1, Health and Safety Code; 40 CFR 280.21.

**STATE WATER RESOURCES CONTROL BOARD
UNDERGROUND STORAGE TANK REGULATIONS
AMENDMENTS FOR IMPLEMENTATION OF SB 989**

December 22, 2000

MODIFICATIONS TO TEXT OF PROPOSED REGULATIONS

DETAILED STATEMENT OF REASONS

The specific reason for each amended, added, or deleted regulation is summarized below.

Section 2611. Additional Definitions

The definition of “Dispenser” is revised because dispensers are inherently part of the underground piping system, as defined in Health and Safety Code 25281.5.

The term “Dispenser Spill Containment or Control System” is changed to “Under-Dispenser Spill Containment or Control System” in order to clarify that these systems apply only to containing or controlling leaks from piping located underneath dispensers.

Section 2636. Design, Construction, Installation, Testing, and Monitoring Requirements for Piping

Subsection 2636(f)(1) is amended to specifically include under-dispenser spill control or containment systems in order to clarify that these systems must be monitored in accordance with the monitoring requirements for piping.

Subsection 2636(h)(3) is revised to accommodate the amending of “Dispenser Spill Containment or Control System” to “Under-dispenser Spill Containment or Control System.” These revisions have no regulatory effect.

Sections 2636.1, 2636.2, and 2636.4

Sections 2636.1, 2636.2, and 2636.4 are revised to accommodate the amending of “Dispenser Spill Containment or Control System” to “Under-dispenser Spill Containment or Control System.” These revisions have no regulatory effect.

Section 2637. Secondary Containment Testing and Annual Maintenance Certification

Subsection 2637(a)(1) is amended to allow local agencies additional time to review enhanced leak detection proposals.

Subsection 2637(b) is amended to clarify that individuals employed by a licensed contractor for the purpose of performing annual monitoring maintenance certification, and related work, must

be trained and re-certified in accordance with 2637(b)(1)(B) and (C). The reasons for this change are as follows.

In accordance with the California State Contractors Licensing Board statutes, the term “Persons” includes either a contractor that provides the work, or an individual that actually performs the work. As such, under current language, individuals employed by a contractor holding one of the required licenses for the purpose of conducting annual monitoring maintenance certification, and related work, do not need to possess a personal contractor’s license.

The SWRCB believes that, under current language, this might also be interpreted by some people to mean that individuals actually performing the work, that are employed by an appropriately licensed contractor, do not need to be trained and re-certified if the contractor is trained and re-certified. This was not the SWRCB’s intent in developing this language, nor does it conform with the SWRCB’s interpretation of the supporting statute (25284.1(5)(D)(i)).

Section 2640. General Applicability of Article

Subsection 2640(e)(2) is revised to re-instate a time limit for the SWRCB to review enhanced leak detection notification appeals, with the time limit extended to 90 days from 30 days. This provision was reinstated in response to comments from local agencies requesting a time limit so that enhanced leak detection is not delayed indefinitely during the appeals process.

Section 2660. General Applicability of Article

Subsections 2660(g) and 2660(h) are changed because the proposed requirements relate to under-dispenser piping and not to dispensers.

Section 2666. Requirements for Upgrading Underground Piping

Subsection 2666(e) is revised to accommodate the amending of “Dispenser Spill Containment or Control System” to “Under-dispenser Spill Containment or Control System.” These revisions have no regulatory effect.